

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Fruitridge Vista Water Company, a trust, for an order: 1) establishing a moratorium on new service connections; and 2) clarification of Tariff Rule 15 regarding payment for new facilities servicing new applicants.	Application 05-10-005 (Filed October 7, 2005)
<p>Sacramento Housing and Redevelopment Agency and the Housing Authority of the County of Sacramento,</p> <p style="text-align: right;">Complainants,</p> <p style="text-align: center;">vs.</p> <p>Fruitridge Vista Water Company,</p> <p style="text-align: right;">Defendant.</p>	Case 05-10-007 (Filed October 11, 2005)
<p>County of Sacramento,</p> <p style="text-align: right;">Complainant,</p> <p style="text-align: center;">vs.</p> <p>Fruitridge Vista Water Company,</p> <p style="text-align: right;">Defendant.</p>	Case 05-10-011 (Filed October 7, 2005)
<p>David R. Gonzalez &amp; Donna L. Gonzalez,</p> <p style="text-align: right;">Complainants,</p> <p style="text-align: center;">vs.</p> <p>Fruitridge Vista Water Company,</p> <p style="text-align: right;">Defendant.</p>	Case 05-09-011 (Filed September 6, 2005)
<p>Mercy Properties California,</p> <p style="text-align: right;">Complainant,</p> <p style="text-align: center;">vs.</p> <p>Fruitridge Vista Water Company,</p> <p style="text-align: right;">Defendant.</p>	Case 05-09-012 (Filed September 6, 2005)
<p>Victoria Station, LLC,</p> <p style="text-align: right;">Complainant,</p> <p style="text-align: center;">vs.</p> <p>Fruitridge Vista Water Company,</p> <p style="text-align: right;">Defendant.</p>	Case 05-09-027 (Filed September 22, 2005)
<p>Park Place LLC,</p> <p style="text-align: right;">Complainant,</p> <p style="text-align: center;">vs.</p> <p>Fruitridge Vista Water Company,</p> <p style="text-align: right;">Defendant.</p>	Case 05-11-015 (Filed November 15, 2005)

## **DIVISION OF RATEPAYER ADVOCATES' REPLY TO OPPOSITION COMMENTS ON THE PROPOSED DECISION**

### **I. INTRODUCTION**

Pursuant to Rule 77.5, the Division of Ratepayer Advocates (DRA) replies to the comments on the Proposed Decision (PD) by the Fruitridge Vista Water Co. et al. (FVWC) filed on April 17, 2006.<sup>1</sup>

Rule 77.5 states:

Replies to comments may be filed five days after comments are filed and shall be limited to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties.

### **II. DRA's REPLY**

In support of its Reply, DRA incorporates by reference as if fully stated here its prior filed Opening Brief, Reply Brief, Motion in Opposition to FVWC Motion to Modify, and its Comments on the Proposed Decision. Basically, FVWC misrepresents the facts, the law, and the record when it states the proposed settlement as revised is reasonable, consistent with the law, and in the public interest.

The proposed settlement is unreasonable when the record shows FVWC is receiving a sufficient public grant and loan to pay for the \$2 million buy-in fee without needing City financing for that amount. Even if City financing were necessary, the Commission should only authorize FVWC to surcharge the ratepayers for recovery of the \$2 million buy-in costs. As with the \$3.27 million State Revolving Fund public loan, the City is offering public financing for which FVWC does not expend any of its own funds. It is unreasonable and unfair to ratepayers to allow FVWC to earn a profit for an indefinite period on the \$2 million buy-in costs added to rate base, when FVWC and the PD agree that the \$3.27 million SRF loan may not be added to rate base.

---

<sup>1</sup> DRA's Opening and Reply Briefs, its Response to the FVWC Motion to Modify dated April 11, 2006, and its Comments re the PD dated April 17, 2006, are incorporated by reference as if fully stated here.

The proposed settlement is inconsistent with the law because it waives the Commission's reasonableness and prudence ratemaking review. These Commission processes are to guard against arbitrary rate burdens being imposed on ratepayers without affording the ratepayers due process, fair notice, and an opportunity to be heard. If the Commission adopts the proposed settlement, it will diminish the Constitutional and statutory protections that safeguard ratepayers against rate shock by a water utility. It will in effect aid and abet a utility's violation of Section 451 prohibition against unfair and unreasonable rates.

It is not in the public interest to allow a water utility to earn a profit on the rate base increases of \$2 million and \$5 million, for which FVWC has expended none of its own funds. It is particularly egregious in this case, when the record shows FVWC has long neglected improving the water system. Further, it is rushing to judgment to approve in advance the rate basing of \$5 million of speculative litigation recoveries. While Commission ratemaking processes and affording ratepayers due process may appear cumbersome and time consuming, the record proves no exigency that warrants throwing these procedural safeguards overboard.

### **III. Conclusion**

FVWC's comments are inaccurate factually and legally. FVWC has advanced no sufficient and necessary reason for dispensing with the ratepayers' interest in having fair and reasonable rates. The Commission should therefore reject the proposed settlement.

Respectfully submitted,

/s/ Cleveland W. Lee

---

Cleveland W. Lee  
Staff Counsel

Attorney for the Division of Ratepayer  
Advocates

California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-1792  
Fax: (415) 703-2262

April 24, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of DIVISION OF RATEPAYER ADVOCATES' REPLY TO OPPOSITION COMMENTS ON THE PROPOSED DECISION in Application 05-10-005 et al. by using the following service:

☒ **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

☐ **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on April 24, 2006 at San Francisco, California.

/s/        Angelita Marinda

\_\_\_\_\_  
Angelita Marinda

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*